

PATENT COOPERATION TREATY

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NOTIFICATION OF ELECTION

(PCT Rule 61.2)

From the INTERNATIONAL BUREAU

To:

United States Patent and Trademark
Office
(Box PCT)
Crystal Plaza 2
Washington, DC 20231
ÉTATS-UNIS D'AMÉRIQUE

in its capacity as elected Office

Date of mailing (day/month/year) 05 February 1999 (05.02.99)	
International application No. PCT/EP98/03712	Applicant's or agent's file reference 0/97286 WO
International filing date (day/month/year) 16 June 1998 (16.06.98)	Priority date (day/month/year) 20 June 1997 (20.06.97)
Applicant HAAN DE, Pieter et al	

1. The designated Office is hereby notified of its election made:

☒ in the demand filed with the International Preliminary Examining Authority on:
14 January 1999 (14.01.99)

☐ in a notice effecting later election filed with the International Bureau on:

2. The election ☒ was

☐ was not

made before the expiration of 19 months from the priority date or, where Rule 32 applies, within the time limit under Rule 32.2(b).

PATENT COOPERATION TREATY

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INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 0/97286 WO	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/EP98/03712	International filing date (day/month/year) 16/06/1998	Priority date (day/month/year) 20/06/1997
International Patent Classification (IPC) or national classification and IPC A61M37/00		
Applicant AKZO NOBEL N.V. et al.		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.



2. This REPORT consists of a total of 5 sheets, including this cover sheet.

- ☐ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

Date of submission of the demand 14/01/1999	Date of completion of this report 30.09.99
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized officer Germano, A Telephone No. +49 89 2399 2345 

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. PCT/EP98/03712

I. Basis of the report

1. This report has been drawn on the basis of (*substitute sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to the report since they do not contain amendments.*):

Description, pages:

1-8 as originally filed

Claims, No.:

1-3 as originally filed

Drawings, sheets:

1/1 as originally filed

2. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
☐ the claims, Nos.:
☐ the drawings, sheets:

3. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)):

4. Additional observations, if necessary:

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. PCT/EP98/03712

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes:	Claims	
	No:	Claims	1-3
Inventive step (IS)	Yes:	Claims	
	No:	Claims	1-3
Industrial applicability (IA)	Yes:	Claims	1-3
	No:	Claims	

2. Citations and explanations

see separate sheet

SECTION V

1. The document EP-A-0564038, see figs. 1-3 and col. 5, line 31 to col 6, line 30, discloses an implantation device comprising a hollow needle (1) and a body (7) adjoining the needle, the body (7) comprising an elongated part (2) extending along the same axis as the needle (1), a plunger (7) that can be displaced within the elongated part (2) and the needle (1), the periphery of the plunger (7) defining a channel in the elongated part (2), and a chamber (3) capable of holding an implant, wherein the chamber (3) is positioned radially outside the channel and has a directly or indirectly open connection to the channel, the plunger (7) being capable of closing off and opening up the chamber (3) by being displaced.

This corresponds to the subject-matter of claim 1, which is therefore not new and does not meet the requirements of Art. 33(2) PCT.

The chamber referred to in claim 1 is not defined as being a "closed chamber". In the drawings and according to the description the chamber (7) is a recess or cavity in the hollow body (3) communicating with the bore along the body, the recess being "closed" or "opened" (see page 7, lines 14-25 and the drawings) by pulling or withdrawing the plunger. This corresponds to the description given in EP-A-0564038 for the cup-shaped cavity (3).

- 1.1 It should be further considered that also the documents EP-A-0 551 699, US-A-4 661 103, US-A-1 798 766 appear to be prejudicial for the novelty of claim 1.
2. Claim 2 contains, besides the features of claim 1, the features that both the hollow needle and the plunger have a chamfered tip profile, the tip profile of the plunger being capable of blending with the needle tip profile.

These features however are disclosed, in combination with the features of claim 1, in EP-A-0 551 699 and therefore do not involve novelty, contrary to the requirements of Art. 33(2) PCT.

3. The features of dependent claim 3 are also disclosed, in combination with the features of claims 1 and 2, in the prior art cited above. Therefore claim 3 lacks

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT - SEPARATE SHEET**

International application No. PCT/EP98/03712

novelty, Art. 33(2) PCT.

4. The implantation device described in the claims is industrially manufacturable.
Therefore the claims meet the requirements of Art. 33(4) PCT.

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INTERNATIONAL SEARCH REPORT

(PCT Article 18 and Rules 43 and 44)

Applicant's or agent's file reference 0/97286 WO	FOR FURTHER ACTION see Notification of Transmittal of International Search Report (Form PCT/ISA/220) as well as, where applicable, item 5 below.	
International application No. PCT/EP 98/03712	International filing date (day/month/year) 16/06/1998	(Earliest) Priority Date (day/month/year) 20/06/1997
Applicant AKZO NOBEL N.V. et al.		

This International Search Report has been prepared by this International Searching Authority and is transmitted to the applicant according to Article 18. A copy is being transmitted to the International Bureau.

This International Search Report consists of a total of 4 sheets.

☒ It is also accompanied by a copy of each prior art document cited in this report.

1. ☐ Certain claims were found unsearchable (see Box I).

2. ☐ Unity of invention is lacking (see Box II).

3. ☐ The international application contains disclosure of a **nucleotide and/or amino acid sequence listing** and the international search was carried out on the basis of the sequence listing

☐ filed with the international application.

☐ furnished by the applicant separately from the international application,

☐ but not accompanied by a statement to the effect that it did not include matter going beyond the disclosure in the international application as filed.

☐ Transcribed by this Authority

4. With regard to the **title**, ☒ the text is approved as submitted by the applicant

☐ the text has been established by this Authority to read as follows:

5. With regard to the **abstract**,

☐ the text is approved as submitted by the applicant

☒ the text has been established, according to Rule 38.2(b), by this Authority as it appears in Box III. The applicant may, within one month from the date of mailing of this International Search Report, submit comments to this Authority.

6. The figure of the **drawings** to be published with the abstract is:

Figure No. 1-3 ☐ as suggested by the applicant.

☐ None of the figures.

☒ because the applicant failed to suggest a figure.

☐ because this figure better characterizes the invention.

INTERNATIONAL SEARCH REPORT

International application No.

PCT/EP 98/03712

Box III TEXT OF THE ABSTRACT (Continuation of item 5 of the first sheet)

The abstract has been changed as follows:

Line 1: after "device" insert (1)
Line 1: after "needle" insert (2)
Line 2: after "body" insert (3)
Line 3: after "plunger" insert (5)
Line 4: after "chamber" insert (7)
Line 5: after "implant" insert (8)
Line 6: after "plunger" insert (5)
Line 7: after "channel" insert (6)